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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,913	09/05/2000	Werner Opitz	H 3266 PCT/US	2582

7590

08/14/2002

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EXAMINER

SINES, BRIAN J

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/600,913

Applicant(s)

OPITZ ET AL.

Examiner

Brian J. Sines

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 15-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 15-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 15 – 22, 24, 25 and 27 – 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitesell (U.S. Pat. No. 3,674,672). Regarding claim 1, Whitesell anticipate a process for the automatic determination of the alkalinity of a bath, the process comprising the steps of: (a) drawing a sample of specified volume from the bath; (b) determining the alkalinity, or pH, of the sample by using an acid-base reaction with an acid, wherein the determining step is performed by a measuring device, such as an electrochemical sensor; and (c) outputting the result of step (b) (col. 4, lines 27 – col. 12, line 32). Regarding claim 15, Whitesell teach the process of filtering the sample prior to analysis (col. 4, lines 27 – 36). Regarding claims 16 and 17, Whitesell anticipates that both free and total alkalinity is measured in the process (col. 5, line 57 – col. 6, line 34; col. 12, lines 1 – 17). Regarding claim 18, Whitesell anticipates that the step of determining alkalinity may comprise titrating the sample by the addition of an acid (col. 6, lines 1 – 37). Regarding claim 19, Whitesell anticipates that the step of determining alkalinity may comprise titrating an acid by the addition of a sample (col. 6, lines 1 – 37). Regarding claim 20, Whitesell teaches that the step of outputting comprises displaying the results (col. 6, lines 38 – 72). Regarding claim 21, Whitesell

anticipate that the step of outputting comprises storing the results on a data carrier, such as an analyzer-controller (col. 5, lines 18 – 50). Regarding claims 22 and 28, Whitesell teaches that steps (a) through (c) may be repeated during a specified time interval in order to provide real-time measurements of the process (see Abstract). Regarding claim 24, Whitesell teaches a step of inputting an external request to initiate steps (a) through (c) using an analyzer-controller means (col. 5, lines 5 – 55). Regarding claims 25, 27 and 32, Whitesell inherently anticipates determining the alkalinity level of one or more standard or reagent solutions (col. 4, lines 29 – 53). Regarding claims 29 – 31, Whitesell teaches that the step of determining the alkalinity of the solution is conducted using a pH-sensitive electrode (col. 4, lines 29 – 53; col. 5, lines 57 – 75). Regarding claim 33, Whitesell teaches a step of activating a detectable signal in response to a determination of a preselected concentration level of one or more reagents using a pair of electrodes (col. 4, lines 28 – 53). Regarding claim 34, Whitesell teaches that the results of step (b) may be transmitted to an analyzer-control system (col. 5, lines 5 – 75; col. 6, lines 38 – 69). Regarding claim 35, Whitesell anticipates a step of automatically adding one or more pH-adjusting components into the bath in response to the result of step (b) being a preselected value (see abstract; col. 5, lines 5 – 75; col. 6, lines 38 – 69; col. 2, lines 62 – 75).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitesell (U.S. Pat. No. 3,674,672). Regarding claim 23, Whitesell does not specifically teach that the process further comprise the step of adjusting the duration of a specified time interval based on a comparison of the results of step (b) on consecutively drawn samples. Regarding claim 26, Whitesell does not specifically teach that steps (a) through (c) are automatically repeated after a specified time interval and the step of determining the alkalinity of one or more standard or reagent solutions is initiated if the results of step (b) for two consecutively drawn samples differs by a preselected value. Whitesell does teach that the invention relates to a multiparameter analysis system for the continuous on-stream real-time measurement surveillance and correction of a process solution by electrometric methods, and more particularly, to the electrometric analysis of the process solution by conductivity and titration analyses and thereafter processing this analytical data to correct the measured parameters of the solution to preselected parameters in the event the measured parameters should deviate from the preselected parameters (col. 1, lines 5 – 44).

Whitesell does recognize that real-time analysis for the composition of a solution is necessary for effective process control (col. 2, lines 14 – 31). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate into the process the step of adjusting the duration of a specified time interval based on a comparison of the results of step (b) on consecutively drawn samples. It would also have been obvious to one of ordinary skill in the art to automatically repeat steps (a) through (c) after a specified time interval and the step of determining the alkalinity of one or more standard or reagent solutions if the results of step (b) for two consecutively drawn samples differs by a preselected value. The motivation would have been to provide continuous real-time monitoring for effective process control.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clindenbeard teaches an automatic titration monitoring and adjustment system. Fletcher, III et al. teach an automatic titration system. Mount et al. teach a colorimetric titration method and apparatus. Aichert et al. teach a process and apparatus for titrating. Rothermel, Jr. teaches a method and apparatus for end-point detection in potentiometric titration.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines whose telephone number is (703) 305-0401. The examiner can normally be reached on Monday - Friday (11:30 AM - 8 PM EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (703) 308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BJS
August 11, 2002


Jill Warden
Supervisory Patent Examiner
Technology Center 1700